

capacitors reverse engineered and its customers lost to inferior copycat models. Vermont Tubbs, a furniture manufacturer in Rutland, has seen its designs copied, produced offshore with inferior craftsmanship and materials, and then reimported, so that the company is competing against cheaper versions of its own products. And Hubbardton Forge in Castleton, VT has seen its beautiful and original lamps counterfeited and then sold within the United States at prices—and quality—far below their own. This is wrong. It is unfair to consumers who deserve the high quality goods they think they are paying for, and it is unfair to innovators who play by the rules and deserve to profit from their labor.

The Protecting American Goods and Services Act of 2005 will help to combat this growing scourge. It amends the definition of trafficking in the counterfeit law to criminalize the possession of counterfeit goods with the intent to sell or traffic in those goods, as well as to include any distribution of counterfeits with the expectation of gaining something of value—criminals should not be able to skirt the law simply because they barter illegal goods and services in exchange for their illicit wares. Finally, the bill's new definition will criminalize the importation and exportation of counterfeit goods, as well as of bootleg copies of copyrighted works into and out of the United States.

By tying off these loopholes and improving U.S. laws on counterfeiting, we will be sending a powerful message to the criminals who belong in jail, and to our innovators.

Mr. FRIST. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1095), as amended, was read the third time and passed.

STOP COUNTERFEITING IN MANUFACTURED GOODS ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 278, S. 1699.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1699) to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment.

S. 1699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the “Stop Counterfeiting in Manufactured Goods Act”.

(b) FINDINGS.—The Congress finds that—

(1) the United States economy is losing millions of dollars in tax revenue and tens of thousands of jobs because of the manufacture, distribution, and sale of counterfeit goods;

(2) the Bureau of Customs and Border Protection estimates that counterfeiting costs the United States \$200 billion annually;

(3) counterfeit automobile parts, including brake pads, cost the auto industry alone billions of dollars in lost sales each year;

(4) counterfeit products have invaded numerous industries, including those producing auto parts, electrical appliances, medicines, tools, toys, office equipment, clothing, and many other products;

(5) ties have been established between counterfeiting and terrorist organizations that use the sale of counterfeit goods to raise and launder money;

(6) ongoing counterfeiting of manufactured goods poses a widespread threat to public health and safety; and

(7) strong domestic criminal remedies against counterfeiting will permit the United States to seek stronger anticounterfeiting provisions in bilateral and international agreements with trading partners.

SEC. 2. TRAFFICKING IN COUNTERFEIT MARKS.

Section 2320 of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by inserting after “such goods or services” the following: “, or intentionally traffics or attempts to traffic in labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature, knowing that a counterfeit mark has been applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive.”.

(2) Subsection (b) is amended to read as follows:

“(b)(1) The following property shall be subject to forfeiture to the United States and no property right shall exist in such property:

“(A) Any article bearing or consisting of a counterfeit mark used in committing a violation of subsection (a).

“(B) Any property used, in any manner or part, to commit or to facilitate the commission of a violation of subsection (a).

“(2) The provisions of chapter 46 of this title relating to civil forfeitures, *including section 983 of this title*, shall extend to any seizure or civil forfeiture under this section. At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States, shall order that any forfeited article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law.

“(3)(A) The court, in imposing sentence on a person convicted of an offense under this section, shall order, in addition to any other sentence imposed, that the person forfeit to the United States—

“(i) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as the result of the offense;

“(ii) any of the person's property used, or intended to be used, in any manner or part, to commit, facilitate, aid, or abet the commission of the offense; and

“(iii) any article that bears or consists of a counterfeit mark used in committing the offense.

“(B) The forfeiture of property under subparagraph (A), including any seizure and dis-

position of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section. Notwithstanding section 413(h) of that Act, at the conclusion of the forfeiture proceedings, the court shall order that any forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed.

“(4) When a person is convicted of an offense under this section, the court, pursuant to sections 3556, 3663A, and 3664, shall order the person to pay restitution to the owner of the mark and any other victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii).

“(5) The term ‘victim’, as used in paragraph (4), has the meaning given that term in section 3663A(a)(2).”.

(3) Subsection (e)(1) is amended—

(A) by striking subparagraph (A) and inserting the following:

“(A) a spurious mark—

“(i) that is used in connection with trafficking in any goods, services, labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature;

“(ii) that is identical with, or substantially indistinguishable from, a mark registered on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so registered;

“(iii) that is applied to or used in connection with the goods or services for which the mark is registered with the United States Patent and Trademark Office, or is applied to or consists of a label, patch, sticker, wrapper, badge, emblem, medallion, charm, box, container, can, case, hangtag, documentation, or packaging of any type or nature that is designed, marketed, or otherwise intended to be used on or in connection with the goods or services for which the mark is registered in the United States Patent and Trademark Office; and

“(iv) the use of which is likely to cause confusion, to cause mistake, or to deceive; or”; and

(B) by amending the matter following subparagraph (B) to read as follows:

“but such term does not include any mark or designation used in connection with goods or services, or a mark or designation applied to labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature used in connection with such goods or services, of which the manufacturer or producer was, at the time of the manufacture or production in question, authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation.”.

(4) Section 2320 is further amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

“(f) Nothing in this section shall entitle the United States to bring a criminal cause of action under this section for the repackaging of genuine goods or services not intended to deceive or confuse.”.

SEC. 3. SENTENCING GUIDELINES.

(a) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review

and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of any offense under section 2318 or 2320 of title 18, United States Code.

(b) **AUTHORIZATION.**—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.

(c) **RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.**—In carrying out this section, the United States Sentencing Commission shall determine whether the definition of “infringement amount” set forth in application note 2 of section 2B5.3 of the Federal sentencing guidelines is adequate to address situations in which the defendant has been convicted of one of the offenses listed in subsection (a) and the item in which the defendant trafficked was not an infringing item but rather was intended to facilitate infringement, such as an anti-circumvention device, or the item in which the defendant trafficked was infringing and also was intended to facilitate infringement in another good or service, such as a counterfeit label, documentation, or packaging, taking into account cases such as *U.S. v. Sung*, 87 F.3d 194 (7th Cir. 1996).

Mr. LEAHY. Mr. President, counterfeiting threatens the American economy, our workers, and our consumers. I am pleased that the Senate has today taken an important step towards beating back that threat, by passing S. 1699, the “Stop Counterfeiting in Manufactured Goods Act.” Senator SPECTER is the principal cosponsor, and I know that he shares with me the conviction that this bill that will give law enforcement improved tools to fight counterfeit trademarks, and that it could work a significant change in the efforts to combat this type of theft. So are all our cosponsors, and I thank them: Senators ALEXANDER, BAYH, BROWNBACK, COBURN, CORNYN, DEWINE, DURBIN, FEINGOLD, FEINSTEIN, HATCH, KYL, LEVIN, REED, STABENOW, and VOINOVICH.

It is all too easy to think of counterfeiting as a victimless crime, a means of buying sunglasses or a purse that would otherwise strain a monthly budget. The reality, however, is far different. According to the Federal Bureau of Investigation, counterfeiting costs the U.S. between \$200 billion and \$250 billion annually. In Vermont, companies like Burton Snowboards, Vermont Tubbs, SB Electronics, and Hubbardton Forge—all of which have cultivated their good names through pure hard work and creativity—have felt keenly the damage of intellectual property theft on their businesses. This is wrong. It is simply not fair to the businesses who innovate and to the people whose economic livelihoods depend on these companies.

The threat posed by counterfeiting is more than a matter of economics. Inferior products can threaten the safety of those who use them. When a driver taps a car’s brake pedals there should be no uncertainty about whether the brake linings are made of compressed grass, sawdust, or cardboard. Sick pa-

tients should not have to that they will ingest counterfeit prescription drugs and, at best, have no effect. The World Health Organization estimates that the market for counterfeit drugs is about \$32 billion each year. Knock-off parts have even been found in NATO helicopters. What’s more, according to Interpol, there is an identifiable link between counterfeit goods and the financing of terrorist operations.

S. 1699 makes several improvements to the U.S. Code. The bill strengthens 18 U.S.C. 2318, the part of the criminal code that deals with counterfeit goods and services, to make it a crime to traffic in counterfeit labels or packaging, even when counterfeit labels or packaging are shipped separately from the goods to which they will ultimately be attached. Savvy counterfeiters have exploited this loophole to escape liability. This bill closes that loophole.

The bill will also make counterfeit labels and goods, and any equipment used in facilitating a crime under this part of the code, subject to forfeiture upon conviction. Any forfeited goods or machinery would then be destroyed, and the convicted infringer would have to pay restitution to the lawful owner of the trademark. Finally, although the bill is tough, it is also fair. It states that nothing “shall entitle the United States to bring a cause of action under this section for the repackaging of genuine goods or services not intended to deceive or confuse.” It is truly just the bad actors we want to punish.

Those who profit from another’s innovation have proved their creativity only at escaping responsibility for their actions. As legislators it is important that we provide law enforcement with the tools needed to capture these thieves. I am committed to this effort, and will continue to sponsor legislation that will support law enforcement in the protection of the intellectual property rights that are so important to the American economy and its creative culture.

Mr. SPECTER. Mr. President, I want to take a moment to speak about S. 1699, the Stop Counterfeiting in Manufactured Goods Act of 2005, a bill I have sponsored with Senator LEAHY and fifteen other cosponsors—Senators ALEXANDER, BAYH, BROWNBACK, COBURN, CORNYN, DEWINE, DURBIN, FEINGOLD, FEINSTEIN, HATCH, KYL, LEVIN, REED, STABENOW, and VOINOVICH.

The Stop Counterfeiting in Manufactured Goods Act addresses a problem that has reached epidemic proportions as a result of a loophole in our criminal code: the trafficking in counterfeit labels. Criminal law currently prohibits the trafficking in counterfeit trademarks “on or in connection with goods or services.” However, it does not prohibit the trafficking in the counterfeit marks themselves. As such, there is nothing in current law to prohibit an individual from selling counterfeit labels bearing otherwise protected trademarks within the United States.

This loophole was exposed by the Tenth Circuit Court of Appeals in *United States v. Giles*, 213 F.3d 1247—10th Cir. 2000. In this case, the United States prosecuted the defendant for manufacturing and selling counterfeit Dooney & Bourke labels that third parties could later affix to generic purses. Examining Title 18, section 2320, of the United States Code, the Tenth Circuit held that persons who sell counterfeit trademarks that are not actually attached to any “goods or services” do not violate the federal criminal trademark infringement statute. Since the defendant did not attach counterfeit marks to “goods or services,” the court found that the defendant did not run afoul of the criminal statute as a matter of law. Thus, someone caught red-handed with counterfeit trademarks walked free.

S. 1699 closes this loophole by amending Title 18, section 2320 of the United States Code to criminally prohibit the trafficking, or attempt to traffic, in “labels, patches, stickers” and generally any item to which a counterfeit mark has been applied. In so doing, S. 1699 provides U.S. Department of Justice prosecutors with the means not only to prosecute individuals trafficking in counterfeit goods or services, but also individuals trafficking in labels, patches, and the like that are later applied to goods.

Congress must act expeditiously to protect U.S. held trademarks to the fullest extent of the law. The recent ten count indictment of four Massachusetts residents of conspiracy to traffic in approximately \$1.4 million of counterfeit luxury goods in the case of *U.S. v. Luong et al.*, 2005 D. Mass. underscores the need for this legislation. According to the indictment, law enforcement officers raided self-storage units earlier this year and found the units to hold approximately 12,231 counterfeit handbags; 7,651 counterfeit wallets; more than 17,000 generic handbags and wallets; and enough counterfeit labels and medallions to turn more than 50,000 generic handbags and wallets into counterfeits. Although the U.S. Attorney’s Office was able to pursue charges of trafficking and attempting to traffic in counterfeit handbags and wallets, they could not bring charges for trafficking and attempting to traffic in the more than 50,000 counterfeit labels and medallions. As such, these defendants will escape prosecution that would have otherwise been illegal if they had only been attached to an otherwise generic bag. This simply does not make sense and had the Stop Counterfeiting in Manufactured Goods Act of 2005 been in effect at the time of indictment, U.S. prosecutors would have been able to bring charges against the defendants for trafficking and attempting to traffic in not only counterfeit goods, but also counterfeit labels.

As Assistant Attorney General Alice Fisher said, “Those who manufacture and sell counterfeit goods steal business from honest merchants, confuse or

defraud honest consumers, and illegally profit on the backs of honest American workers and entrepreneurs." This point is underscored by the Bureau of Customs and Border Protection estimate that trafficking in counterfeit goods costs the United States approximately \$200 to \$250 million annually. With each passing year, the United States loses millions of dollars in tax revenues to the sale of counterfeit goods. Further, each counterfeit item that is manufactured overseas and distributed in the United States costs American workers tens of thousands of jobs. With counterfeit goods making up a growing 5-7 percent of world trade, this is a problem that we can no longer ignore.

To be sure, counterfeiting is not limited to the popular designer goods that we have all seen sold on corners of just about every major metropolitan city in the United States. Counterfeiting has a devastating impact on a broad range of industries. In fact, for almost every legitimate product manufactured and sold within the United States, there is a parallel counterfeit product being sold for no more than half the price. These counterfeit products range from children's toys to clothing to Christmas tree lights. More frightening are the thousands of counterfeit automobile parts, batteries, and electrical equipment that are being manufactured and placed into the stream of commerce with each passing day. I am told that the level of sophistication in counterfeiting has reached the point that you can no longer distinguish between the real and the counterfeit good or label with the naked eye. However, just because these products look the same does not mean that they have the same quality characteristics. The counterfeit products are not subject to the same quality controls of legitimate products, resulting in items that are lower in quality and likely to fall apart. In fact, counterfeit products could potentially kill unsuspecting American consumers.

In addition to closing the "counterfeit label loophole," the Stop Counterfeiting in Manufactured Goods Act strengthens the criminal code and provides heightened penalties for those trafficking in counterfeit marks. Current law does not provide for the seizure and forfeiture of counterfeit trademarks, whether they are attached to goods or not. Therefore, many times such counterfeit goods are seized one day, only to be returned and sold to an unsuspecting public. To ensure that individuals engaging in the practice of trafficking in counterfeit marks cannot reopen their doors, S. 1699 establishes procedures for the mandatory seizure, forfeiture, and destruction of counterfeit marks prior to a conviction. Further, it provides for procedures for the mandatory forfeiture and destruction of property derived from or used to engage in the trafficking of counterfeit marks.

In crafting the language in Section 2(b)(1)(B) of this bill pertaining to the

forfeiture authority of the U.S. Department of Justice, Senator LEAHY and I discussed the scope of the facilitation language, which parallels the drug and money laundering forfeiture language in 21 U.S.C. 853 and 18 U.S.C. 982, respectively, and how it might relate to Internet marketplace companies, search engines, and ISPs. Specifically, we were aware of concerns regarding the potential misapplication of the facilitation language in Section 2(b)(1)(B) to pursue forfeiture and seizure proceedings against responsible Internet marketplace companies that serve as third party intermediaries to online transactions. To this end, I would like to make it clear for the record that this bill is not intended to apply to "good actor" Internet service providers that serve as third party intermediaries to online transactions and take demonstrable steps to prevent the exchange or trafficking of counterfeit goods on their networks.

Does Senator LEAHY agree?

Mr. LEAHY. I agree with the Senator.

Section 2(b)(1)(B) authorizes U.S. Attorneys to pursue civil in rem forfeiture proceedings against "any property used, in any manner or part, to commit or to facilitate the commission of a violation of subsection (a)." The intent of this language is to provide attorneys and prosecutors with the authority to bring a civil forfeiture action against the property of bad actors who are facilitating trafficking or attempts to traffic in counterfeit marks. The forfeiture authority in Section 2(b)(1)(B) cannot be used to pursue forfeiture and seizure proceedings against the computer equipment, website or network of responsible Internet marketplace companies, who serve solely as a third-party to transactions and do not tailor their services or their facilities to the furtherance of trafficking or attempts to traffic in counterfeit marks. However, these Internet marketplace companies must make demonstrable good faith efforts to combat the use of their systems and services to traffic in counterfeit marks. Companies must establish and implement procedures to take down postings that contain or offer to sell goods, services, labels, and the like in violation of this act upon being made aware of the illegal nature of these items or services.

It is the irresponsible culprits that must be held accountable. Those who profit from another's innovation have proved their creativity only at escaping responsibility for their actions. As legislators it is important that we provide law enforcement with the tools needed to capture these thieves.

It is also my understanding that the U.S. Sentencing Commission recently promulgated new Federal sentencing guidelines to count for the changes in how intellectual property crimes are committed. Could the Senator from Pennsylvania clarify for the RECORD why we have authorized the U.S. Sentencing Commission to further amend

the Federal sentencing guidelines and policy statements for crimes committed in violation of Title 18, section 2318 or 2320, of the United States Code?

Mr. SPECTER. As the Senator is aware, the Sentencing Commission has sought to update the Federal sentencing guidelines upon the periodic directive of Congress to reflect and account for changes in the manner in which intellectual property offenses are committed. The recent amendments to which you refer were promulgated by the Sentencing Commission pursuant to the authorization in the Family Entertainment and Copyright Act of 2005, also known as FECA. These amendments to the Federal sentencing guidelines, which took effect on October 24, 2005, address changes in penalties and definitions for intellectual property rights crimes, particularly those involving copyrighted pre-release works and issues surrounding "uploading." For example, these guidelines provide for a 25-percent increase in sentences for offenses involving pre-release works. In addition, the Commission revised its definition of "uploading" to ensure that the guidelines are keeping up with technological advances in this area.

I would like to make it clear for the record that the directive to the Sentencing Commission in Section 3 of S. 1699 is not meant as disapproval of the Commission's recent actions in response to FECA. Rather, Section 3 covers other intellectual property rights crimes that Congress believes it is time for the Commission to revisit. Specifically, Section 3 directs the Commission to review the guidelines, and particularly the definition of "infringement amount," to ensure that offenses involving low-cost items like labels, patches, medallions, or packaging that are used to make counterfeit goods that are much more expensive, are properly punished. It also directs the Commission to ensure that the penalty provisions for offenses involving all counterfeit goods or services, or devices used to facilitate counterfeiting are properly addressed by the guidelines. As it did in response to the No Electronic Theft Act of 1997 and FECA, I am confident that the Commission will ensure that the Federal sentencing guidelines provide adequate punishment and deterrence for these very serious offenses and I look forward to the Commission's response to this directive.

Mr. LEAHY. I thank Senator SPECTER for that clarification. As he is aware, we have received over a dozen letters in support of S. 1699, the Stop Counterfeiting in Manufactured Goods Act of 2005. I ask unanimous consent to have several of these letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEXMARK INTERNATIONAL INC.,
Lexington, KY, November 4, 2005.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: I am writing to the members of the Senate Judiciary Committee to express Lexmark's strong support for Senate Bill 1699 (the "Stop Counterfeiting in Manufactured Goods Act"), and to urge your support for its passage. S. 1699 creates a much-needed deterrent targeting traffickers in counterfeit labels and goods—illegal acts which plague not only our business, but many others. S. 1699 amends 18 U.S.C. 2320 to strengthen the application of this statute to include those who traffic in counterfeit labels and goods, thus greatly helping our fight against counterfeiters.

Unfortunately, counterfeiting continues to grow out of control because it is seen as a lucrative, yet low risk, crime that some even try to paint as a victimless crime. Nothing could be farther from the truth—not only are the illicit profits being funneled into other criminal activities, but law abiding citizens around the world are made victims when they unwittingly buy illegitimate products. Intellectual property owners, their counsels, private investigators and law enforcement fight counterfeiting every day. We must be able to send a message to counterfeiters that the theft of intellectual property is intolerable and that the battle against counterfeiting will be fought with stronger weapons. S. 1699 accomplishes that precise goal, by strengthening forfeiture and destruction remedies.

Counterfeiting costs the United States billions of dollars each year in lost intellectual property, revenues, profits and ultimately, jobs. These criminals must be stopped, and this bill seeks to take away some of the tools they use to manufacture counterfeit goods. If S. 1699 is enacted into law, it will also help the United States seek reciprocal legislation abroad.

I urge your personal support for S. 1699 both in Judiciary Committee deliberations and in promotion of its passage in the full Senate. Thank you for your consideration in addressing this very serious problem.

Yours sincerely,

PATRICK T. BREWER,
Director, Government Affairs.

ZIPPO MANUFACTURING COMPANY,
Bradford, PA, November 2, 2005.

Hon. PATRICK J. LEAHY,
Ranking Democratic Member, Russell Senate
Office Building, Washington, DC.

DEAR SENATOR LEAHY: I am writing to express my absolute support for Senate Bill 1699, the "Stop Counterfeiting in Manufactured Goods Act". S. 1699 creates a necessary disincentive in the criminal code for traffickers in counterfeit labels and goods. We urge you to endorse S. 1699 and promote its passage in the full Senate.

First, the S. 1699 amendments to 18 U.S.C. 2320 will help our fight against counterfeiters by strengthening the application of this statute to those who traffic in counterfeit labels and goods. We are pleased that S. 1699 recognizes the need to strengthen the effectiveness of 18 U.S.C. 2320.

Second, S. 1699 strengthens forfeiture and destruction remedies that are necessary to deter counterfeiting. Unfortunately, counterfeiting continues to grow out of control because it is seen as a lucrative yet low risk crime. Intellectual property owners, their counsels, private investigators and law enforcement fight counterfeiting every day. We must be able to send a message to counterfeiters that the theft of intellectual property is intolerable and that the battle against counterfeiting will be fought with stronger

weapons. S. 1699 accomplishes that precise goal.

Counterfeiting will continue to cost the U.S. hundreds of billions of dollars each year if U.S. law does act as a deterrent. This bill takes the very equipment out of the hands of counterfeiters who would perpetuate the manufacture of illicit goods. Once S. 1699 is enacted into law it will allow the U.S. to seek similarly strong legislation abroad as it enters into trade negotiations with other countries.

We ask you to support S. 1699 as written in your next Executive Business meeting and promote its passage in the full Senate. Thank you for attending to a serious problem that undermines U.S. intellectual property.

Sincerely,

CHARLES JEFFREY DUKE,
Corporate Secretary and General Counsel.

WARNACO,
New York, NY, November 2, 2005.

Hon. Senator PATRICK J. LEAHY,
Ranking Democratic Member, Russell Senate
Office Building, Washington, DC.

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Sincerely,

DOREEN SMALL,
Associate General Counsel.

ROLEX WATCH U.S.A., INC.,
New York, NY, November 2, 2005.

Hon. Senator PATRICK J. LEAHY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: I am the President and CEO of Rolex Watch U.S.A., Inc., which as you may be aware, has been battling counterfeiters for many years. I am writing to express my absolute support for Senate Bill 1699, the "Stop Counterfeiting in Manufactured Goods Act." S. 1699 creates a nec-

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Sincerely,

ALLEN BRILL,
President and CEO.

VISION COUNCIL OF AMERICA,
Alexandria, VA, November 2, 2005.

Hon. PATRICK J. LEAHY,
Ranking Democratic Member, Russell Senate
Office Building, Washington, DC.

DEAR SENATOR LEAHY, I am writing to express my absolute support for Senate Bill 1699, the "Stop Counterfeiting in Manufactured Goods Act". S. 1699 creates a necessary disincentive in the criminal code for traffickers in counterfeit labels and goods. We urge you to endorse S. 1699 and promote its passage in the full Senate.

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Counterfeiting will continue to cost the U.S. hundreds of billions of dollars each year if U.S. law does act as a deterrent. This bill takes the very equipment out of the hands of counterfeiters who would perpetuate the manufacture of illicit goods. Once S. 1699 is enacted into law it will allow the U.S. to seek similarly strong legislation abroad as it enters into trade negotiations with other countries.

We ask you to support S. 1699 as written in your next Executive Business meeting and promote its passage in the full Senate.

Thank you for attending to a serious problem that undermines U.S. intellectual property.

Sincerely,

DONNA VAN GREEN,
*Frame Division Liaison,
Vision Council of America.*

THE TIMBERLAND COMPANY,
Stratham, NH, November 2, 2005.

Senator ARLEN SPECTER,
*Chairman, Senate Committee on the Judiciary,
Hart Senate Office Building, Washington,
DC.*

Senator PATRICK J. LEAHY,
*Ranking Member, Senate Committee on the Judiciary,
Russell Senate Office Building,
Washington, DC.*

DEAR SENATOR SPECTER AND SENATOR LEAHY: On behalf of the more than 2,100 people employed in the U.S. by The Timberland Company, I am writing to express my support for S. 1699, the "Stop Counterfeiting in Manufactured Goods Act" which creates necessary disincentives in the criminal code for traffickers in counterfeit labels and goods. This bill is an essential step toward protecting our trademark, our brand, and our company's identity. I urge you to endorse this bill and promote its passage in the full Senate.

As you know, the illicit counterfeiting of legitimate products is a serious problem, both internationally and in the United States. This bill, which is similar to H.R. 32, which was passed by the U.S. House of Representatives in May, will strengthen efforts to combat counterfeiting in the U.S. in two very important ways. Specifically, S. 1699 would:

Amend Title 18 of the United States Code to close the loophole in the criminal trademark infringement statute, which currently does not criminally prohibit the trafficking of labels, patches, and stickers, and other counterfeit marks; and

Ensure that counterfeit goods and marks seized in violation of this statute are properly disposed of and do not make their way back on the street.

Counterfeiting costs the U.S. hundreds of billions of dollars each year, and will continue to do so if our laws do not act as a deterrent. Not only would S. 1699 take the very equipment out of the hands of counterfeiters who would perpetuate the manufacture of illicit goods, it would allow the U.S. to seek similarly strong legislation abroad as it enters into trade negotiations with other countries.

I appreciate this opportunity to address this critically important issue, and I hope you will continue the fight against illicit counterfeiting of U.S. products by supporting S. 1699 and promoting its passage in the full Senate.

Sincerely,

DANETTE WINEBERG,
*Vice President,
General Counsel and Secretary.*

Mr. LEAHY. Mr. President, it has been very heartening to see such overwhelming support for this important bill. Counterfeiting is a threat to America. It wreaks real harm on our economy, our workers, and our consumers. This bill is a tough bill that will give law enforcement improved tools to fight this form of theft. The bill is short and straight-forward, but its impact should be profound and far-reaching.

Mr. SPECTER. I would like to take this opportunity to thank Senators ALEXANDER, BAYH, BROWNBACK, COBURN, CORNYN, DEWINE, DURBIN,

FEINGOLD, FEINSTEIN, HATCH, KYL, LEVIN, REED, STABENOW and VOINOVICH for their co-sponsorship.

I would also like to thank Representative JIM SENSENBRENNER, chairman of the House Judiciary Committee, and Representative JOE KNOLLENBERG for their leadership in the House with regard to H.R. 32, counterfeiting legislation directly related to S. 1699. In January of this year, Representative KNOLLENBERG introduced H.R. 32, the initial draft of the Stop Counterfeiting in Manufactured Goods Act of 2005, in the House. When the bill was in Committee, he fostered negotiations between the Department of Justice, the U.S. Chamber of Commerce, and the International Trademark Association to craft language nearly paralleling S. 1699. I commend to my colleagues the Housing Judiciary Committee Report on H.R. 32, as amended.

Mr. LEAHY. Some of our most important legislation is produced not only when we reach across the aisle in the name of bipartisanship, but, when we work across chambers and reach true consensus. I would also like to thank Senators ALEXANDER, BAYH, BROWNBACK, COBURN, CORNYN, DEWINE, DURBIN, FEINGOLD, FEINSTEIN, HATCH, KYL, LEVIN, REED, STABENOW and VOINOVICH for their cosponsorship. Counterfeiting is a serious problem that does not lend itself to a quick and easy solution. This legislation is an important step towards fighting counterfeiting. I hope we can build on the success of this law.

Mr. FRIST. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (S. 1699), as amended, was read the third time and passed.

AUTHORITY TO SIGN DULY ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. FRIST. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader and the junior Senator from Virginia be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, NOVEMBER 14, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. on Monday, November 14. I further ask that following the prayer and the

pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved and the Senate resume consideration of S. 1042 as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, on Monday, the Senate will continue its consideration of the Defense authorization bill. Under the agreement reached this evening, we will have debate on only a few remaining amendments. We will complete action on those amendments and proceed to passage of the bill with a series of votes that will start on Tuesday morning. We will have a vote on Monday. Under the order just entered, we will vote on the Energy and Water appropriations conference report at 5:30. We will also complete action on the State, Justice, Commerce appropriations conference report next week.

ADJOURNMENT UNTIL MONDAY, NOVEMBER 14, 2005, AT 2 P.M.

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:56 p.m., adjourned until Monday, November 14, 2005, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate November 10, 2005:

DEPARTMENT OF COMMERCE

ROBERT C. CRESANTI, OF TEXAS, TO BE UNDER SECRETARY OF COMMERCE FOR TECHNOLOGY, VICE PHILLIP BOND, RESIGNED.

DAVID M. SPOONER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE JAMES J. JOCHUM, RESIGNED.

DEPARTMENT OF HOMELAND SECURITY

UTTAM DHILLON, OF CALIFORNIA, TO BE DIRECTOR OF THE OFFICE OF COUNTERNARCOTICS ENFORCEMENT, DEPARTMENT OF HOMELAND SECURITY. (NEW POSITION)

SUPREME COURT OF THE UNITED STATES

SAMUEL A. ALITO, JR., OF NEW JERSEY, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES, VICE SANDRA DAY O'CONNOR, RETIRING.

THE JUDICIARY

LEO MAURY GORDON, OF NEW JERSEY, TO BE A JUDGE OF THE UNITED STATES COURT OF INTERNATIONAL TRADE, VICE THOMAS J. AQUILINO, RETIRED.

DEPARTMENT OF JUSTICE

STEPHEN C. KING, OF NEW YORK, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 2008, VICE JEREMY H. G. IBRAHIM, TERM EXPIRED.

DEPARTMENT OF STATE

DUANE ACKLE, OF NEBRASKA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTIETH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

GOLI AMERI, OF OREGON, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTIETH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

ROBERT C. O'BRIEN, OF CALIFORNIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTIETH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

DONALD M. PAYNE, OF NEW JERSEY, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTIETH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.